

In the Matter of)
)
Rural Call Completion) WC Docket No. 13-39

NCTA – The Internet & Television Association (NCTA) supports the petition for reconsideration filed by USTelecom – The Broadband Association (USTelecom) and opposes the petition for reconsideration filed by NTCA – The Rural Broadband Association (NTCA) in the above-referenced proceeding.¹

INTRODUCTION

In the *Second Order and Third Further Notice*, the Commission adopted a new rule requiring “covered” providers to monitor the performance of any intermediate providers they use to deliver calls to rural areas and take steps to correct any performance problems.² The Commission also sought comment on how it should implement the requirements of the Rural Call Quality and Reliability Act of 2017 (RCC Act), which requires creation of a registry of intermediate providers and the development of quality standards for such providers.³

USTelecom has requested reconsideration with respect to one element of the monitoring rule. Specifically, it asks the Commission to eliminate the requirement in the text of the *Second*

¹ USTelecom – The Broadband Association, Petition for Reconsideration, WC Docket No. 13-39 (June 11, 2018) (USTelecom Petition); Petition for Reconsideration of NTCA – The Rural Broadband Association, WC Docket No. 13-39 (June 11, 2018) (NTCA Petition).

² *Rural Call Completion*, WC Docket No. 13-39, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 18-45 (rel. Apr. 17, 2018) (*Second Order and Third Further Notice*); 47 C.F.R. § 64.211.

³ *Second Order and Third Further Notice* at ¶ 68.

Order and Third Further Notice that covered providers renegotiate their contracts with intermediate providers to include provisions “limiting the use of further intermediate providers and provisions that ensure quality call completion,” along with an obligation to “ensure these restrictions flow down the entire intermediate provider call path.”⁴ USTelecom also has requested a stay of the monitoring rule until new rules implementing the RCC Act take effect.⁵

NTCA has requested reconsideration of the Commission’s decision not to require that covered providers “file their documented rural call completion monitoring procedures with the Commission.”⁶ NTCA argues that the Commission’s approach of stating its expectation that covered providers will document their monitoring procedures without imposing an affirmative requirement to file such documentation will limit the effectiveness of the monitoring rule.⁷

For the reasons explained below, the Commission should grant the USTelecom petition and deny the NTCA petition.

I. THE COMMISSION SHOULD GRANT THE USTELECOM PETITION

NCTA supports USTelecom’s request for reconsideration of the requirement that covered providers renegotiate contracts with intermediate providers to include provisions governing the performance of downstream providers. NCTA identified concerns about such a requirement before the Commission adopted the *Second Order and Third Further Notice*. Specifically, we explained that covered providers only had the ability to directly monitor intermediate providers they directly contracted with and that covered providers should not be subjected to liability for

⁴ USTelecom Petition at 5, citing *Second Order and Third Further Notice* at ¶¶ 34-35.

⁵ USTelecom – The Broadband Association, Petition for Stay, WC Docket No. 13-39 (June 11, 2018).

⁶ NTCA Petition at 1.

⁷ *Id.* at 6-9.

actions within the control of any downstream providers selected by an intermediate provider.⁸

We also explained that, if adopted, compliance with the monitoring rule would be a time-consuming process and encouraged the Commission to provide a 12-month transition period after receiving approval for the new rules from the Office of Management and Budget pursuant to the Paperwork Reduction Act.⁹

While the Commission addressed some of the concerns identified by NCTA in the text of the *Second Order and Third Further Notice*, USTelecom's petition and stay request demonstrate that significant problems remain. As USTelecom explains, the requirements imposed in paragraphs 34 and 35 of the *Second Order and Third Further Notice* to monitor call performance of all downstream providers in the call path through contractual provisions will require substantial renegotiation of virtually all existing contracts between a covered provider and any intermediate providers it contracts with.¹⁰ These challenges are compounded by the fact that the Commission established a much shorter transition period than NCTA had requested.¹¹

NCTA also agrees with USTelecom that the specific requirements at issue may be unnecessary once the Commission establishes rules to implement the RCC Act. Specifically, after the Commission has adopted rules imposing service quality standards directly on intermediate providers, requiring those providers to register with the Commission, and requiring covered providers to employ only registered intermediate providers, there will be far less need, if any, for the sort of micromanagement of downstream providers contemplated in paragraphs 34

⁸ See, e.g., Letter from Steve Morris, NCTA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 13-39 at 2 (Apr. 11, 2018).

⁹ *Id.*, Attachment at 2.

¹⁰ USTelecom Petition at 6.

¹¹ Instead of providing 12 months after OMB approval of the new rules, the Commission provided only 6 months from the release date of the *Second Order and Third Further Notice*.

and 35 of the *Second Order and Third Further Notice*. Reducing or eliminating these requirements for indirect control over intermediate providers would be the better policy because it would hold all providers responsible for performance within their control and not for actions over which they have no control.¹²

II. THE COMMISSION SHOULD DENY THE NTCA PETITION

NCTA opposes the request by NTCA that the Commission require covered providers to file their monitoring procedures with the Commission. The Commission has been diligent about trying to eliminate “regulatory underbrush” and part of achieving that objective is not to adopt unnecessary paperwork requirements in the first place. That is what the Commission did in this case and its decision was sensible and consistent with the public interest.

The Commission found that the benefit of requiring these internal policies to be publicly filed was not sufficient to offset the cost associated with possibly revealing “important technical, personnel, and commercial details about the covered provider’s network and business operations.”¹³ While NTCA suggests the better approach is to require the filing with requests for confidentiality as necessary, it is entirely reasonable for the Commission to conclude that the burdens of such an approach on hundreds of providers, and on the Commission itself, are not justified, particularly where the Commission has clear authority to obtain such information in the context of an investigation.¹⁴

¹² See NCTA Comments, WC Docket No. 13-39 (June 4, 2018); NCTA Reply Comments, WC Docket No. 13-39 (June 19, 2018).

¹³ *Second Order and Third Further Notice* at ¶ 46.

¹⁴ *Id.* at ¶ 46.

CONCLUSION

For all the reasons explained above, the Commission should grant the USTelecom petition and deny the NTCA petition.

Respectfully submitted,

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